

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

TIMOTHY SIMMS,

Petitioner,

: Case No. 2:22-cv-474

- vs -

District Judge Edmund A. Sargus, Jr.
Magistrate Judge Michael R. Merz

WARDEN, Grafton Correctional
Institution,

:

Respondent.

DECISION AND ORDER

This habeas corpus case, brought *pro se* by Petitioner Timothy Simms, is before the Court on Petitioner's Motion to Proceed to Hearing and Judgment (ECF No. 45).

The first branch of the Motion asks the Court to convene an evidentiary hearing. However, the Supreme Court has severely limited the authority of District Courts to hold such hearings and has largely confined us to deciding cases entirely from the state court record. *Cullen v. Pinholster*, 563 U.S. 170 (2011). *Pinholster* was cited to Petitioner in the Magistrate Judge's denial of his Motion to Expand the Record (ECF No. 42), but *Pinholster* applies also to motions under Rule 8 of the Rules Governing § 2254 Cases.

The second branch of the Motion seeks expedited consideration of the merits of the case. The undersigned has filed Reports and Recommendations on the merits which are ripe for Judge Sargus's consideration. This case is therefore pending for final decision by Judge Sargus in the ordinary course of the Court's business.

The Motion is denied.

May 13, 2024.

s/ Michael R. Merz
United States Magistrate Judge